

**FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND**
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Southern Division

2015 AUG 28 A 10:02

JOEL AARON SILBERMANN,

CLERK'S OFFICE
AT GREENBELT

BY _____ DEPUTY

Plaintiff,

Case No.: GJH-15-2313

v.

DAVID SHULKIN,

Defendant.

MEMORANDUM OPINION

Joel Aaron Silbermann, a self-represented plaintiff, filed this Complaint on August 7, 2015, accompanied by a Motion to Proceed in Forma Pauperis.¹ He will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1) because his financial affidavit indicates that his only source of income is disability payments.

Silbermann's statement of facts reads:

I Joel Aaron Silbermann E-1 United States Navy am refusing war draft. Effective immediately I will use armed defence to protect the killing you do in Iraq and Afganistan. Wherefore produce my [illegible] compel me. As an attorney at law under arrest to my trial. On or about 45 days have lapsed since written citation was issued. Show just cause as to why the charges where reinstated without just cause. [illegible]. This is a writ of habeas corpus the charges where dismissed as [illegible] with prejudice by the state. Congress shall make no law regarding the freedom of religion choices as to my race gender or ethnic orgin.

ECF No. 1 at 2.²

¹ Since August 6, 2015, Silbermann has filed eight civil actions in this Court.

² The Court has transcribed the statement of facts as provided in the Complaint, without correcting typographical errors.

Silbermann is requesting damages of \$900 million, an injunction ordering “war draft and imprisonment,” and an order to “compell the President to order my release or draft me into uniformed service except one appointment an year. notified by certified mail.” *Id.* at 3. Apart from naming David Shulkin as a defendant in the caption of the Complaint, nowhere does Silberman state a claim against him or even mention his name.

Silbermann’s Complaint has been accepted for filing under 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the filing fee. However, a court shall dismiss claims deemed frivolous, malicious or that fail to state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(ii).

A complaint is “frivolous” when it is “clearly baseless.” *Denton v. Hernandez*, 504 U.S. 25, 32 (1992). A “frivolous” claim lacks “an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A claim lacks an arguable basis in law when it is “based on an indisputably meritless legal theory” and describes “fantastic or delusional scenarios.” *Id.* at 32728.

In screening a complaint, a federal judge has an obligation to liberally construe the pleadings of self-represented litigants. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). The self-represented plaintiff’s allegations are assumed to be true. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 55556 (2007). Nonetheless, liberal construction does not mean that a court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. *See Weller v. Dep’t of Soc. Servs.*, 901 F.2d 387, 391 (4th Cir. 1990) (“Federal jurisdiction may not be premised on the mere citation of federal statutes.”); *see also Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985) (stating a district court may not “conjure up questions never squarely presented”).

Even under the liberal standard accorded to self-represented litigants, Silbermann does not state a cognizable claim, nor does he explain why he is pursuing an action against Defendant in this Court. Accordingly, this case will be dismissed. Separate Order to follow.

Dated: August 28, 2015



GEORGE J. HAZEL
United States District Judge